



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of:

Augustine)
Serial No.: 09/771,791)
Filed: January 29, 2001)
For: **SURGICAL BARRIER DEVICE INCORPORATING AN INFLATABLE THERMAL
BLANKET WITH A SURGICAL DRAPE TO PROVIDE THERMAL CONTROL AND
SURGICAL ACCESS**

Group No.: 3739
Examiner: Rosiland S. Kearney
Docket No.: AUGA17000025

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

TERMINAL DISCLAIMER

The owner, AUGUSTINE MEDICAL, INC., of one hundred percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 5,941,907. The owner* hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner* does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I have reviewed the evidentiary documents concerning ownership of United States Patent Application Serial No. 09/771,791 and United States Patent No. 5,941,907 and, to the best of my knowledge and belief, they establish the entire right, title, and interest to United States Patent Application Serial No. 09/771,791 and to United States Patent No. 5,941,907 in
AUGUSTINE MEDICAL, INC.

11/29/2002 NMOHAMM1 00000067 09771791

01 FC:2814

Gray Cary\GT6308466.1 55.00 0P
103806-165152

RECEIVED
DEC - 2 2002
TECHNOLOGY CENTER R3700

I, TERRANCE A. MEADOR, have the power of attorney from the inventors, and I am authorized to sign this Terminal Disclaimer on behalf of AUGUSTINE MEDICAL, INC.

A check in the amount of \$55.00 is enclosed to cover the applicable fee. The Commissioner is hereby authorized to charge any deficit, or credit any overpayment, to Deposit Account No. 50/2258.

Dated: 22 November 2002


TERRANCE A. MEADOR
Reg. No. 30,298

GRAY CARY WARE & FREIDENRICH
4365 Executive Drive, Suite 1100
San Diego, CA 92121-2133

Telephone (858)638-6747 - Fax (858)638-6727